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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION :	Administrative Action
OR REVOCATION OF THE LICENSE OF :	FINAL DECISION AND ORDER
PEARLY H. HAYES, D.D.S. :	
TO PRACTICE DENTISTRY IN THE :	
STATE OF NEW JERSEY. :	

SUMMARY

This matter was opened to the New Jersey State Board of Dentistry on December 16, 1981 by way of Complaint and Order To Show Cause why the License of Respondent, Pearly H. Hayes, D.D.S., should not be temporarily suspended pending a hearing on the administrative complaint in accordance with N.J.S.A. 45:1-22. The State Board of Dentistry is represented by Irwin I. Kimmelman, Attorney General of New Jersey, Kathryn S. Schwed, Deputy Attorney General, appearing, and Respondent is represented by Eric Summerville, Esq.

On the basis of affidavits and reports presented by both parties and extensive questioning of Respondent under oath, the President of the State Board of Dentistry found that Respondent did not present a clear, immediate and imminent danger to the public as a result of his admitted past use of Demerol. While

President found insufficient cause to enter an Order of Temporary Suspension, he ordered that Respondent undergo unannounced urine/blood testing and psychiatric evaluation and that Respondent practice dentistry only when another New Jersey licensed dentist was on the immediate premises.

The Complaint charged that Respondent had purchased wholly excessive quantities of Demerol and that he had consumed these quantities in violation of N.J.S.A. 45:1-13 and N.J.S.A. 1-21(e), (h) and (i). Respondent pleaded non vult to these charges and requested the opportunity to appear before the Board to present factors of mitigation in the form of oral argument.

On January 27, 1982 Respondent appeared before the Board for the mitigation hearing. After oral argument, Respondent submitted numerous affidavits and letters to the Board, including a letter from Laurence R. Mundy, M.D., describing the 20-day rehabilitation treatment program he underwent at Saint Clare's Hospital in Denville, New Jersey; a letter from the Essex County Probation Department stating that Respondent had been successfully discharged from six months probation in connection with a disorderly person's offense for his drug abuse; a letter from Anthony Kominos, M.D., Director of Medical Services for Morris County who observed him for the past nine months as a member of the North Jersey Professional Group of Alcoholics Anonymous; letters from Grace E. Robinson, D.D.S., and Clarence Wilson, D.D.S., with whom he has maintained shared office space for a considerable length of time; and letters from Leroy Williams and

Pastor Elbert L. Maxwell, close friends, who attested to Respondent's genuine attempts at rehabilitation. He also submitted a budget evidencing his monthly expenses, and numerous letters of recommendation from his past associations with the Albert Einstein College of Medicine, Newark Beth Israel Medical Center, East Orange Child Development Corporation, Newark Board of Education, Mental Health Association of Essex County and the College of Medicine and Dentistry. Respondent submitted to extensive questioning regarding his drug abuse problem and treatment in which it was revealed that he fully admitted to abusing Demerol, but that he learned to face his problem through a strenuous program of rehabilitation, including Alcoholics Anonymous meetings five times a week, strong participation in church activities, and intensive self-examination of the personal and professional problems which gave rise to his drug abuse.

FINDINGS OF FACT

The evidence comprising the factual context of the case against Respondent is wholly undisputed. Between September 1979 and December 1980, Respondent purchased over 4489cc's of Demerol. Respondent fully acknowledged that he administered excessive quantities of Demerol to himself over an extended period of time. At the peak of his drug use, he self-administered over 1/2 gram per day.

Respondent's past misconduct cannot be condoned. He engaged in an uncontrollable pattern of drug abuse which presented potential danger to himself and his patients. Nevertheless,

Respondent has demonstrated a genuine effort at rehabilitation which must be recognized. He received his dental training at Howard University Dental School and his post-graduate specialization in oral surgery from Albert Einstein School of Medicine. It appears that Respondent first began using Demerol approximately nine years ago when his physical ailment of colitis caused him to seek pain medication. He freely admitted that he administered Demerol to himself as a means of coping with severe professional pressures. He stated that he has since changed both his personal and professional conduct in such a way as to discourage further drug involvement. He has ceased prescribing, ordering and dispensing any and all Controlled Dangerous Substances and learned to cope with his problems without drugs.

Respondent's rehabilitation consisted of a 20-day treatment program of didactic lectures, individual counseling and group therapy and the development of a plan for continuing recovery. Subsequently, he commenced an intensive schedule of Alcoholics Anonymous meetings with a group of physicians and dentists who formerly abused alcohol and/or drugs. Finally, he has become actively involved in the church and bible studies, thereby replacing his reliance on drugs.

Without prior notice, Respondent submitted to urine/ blood testing, the results of which have demonstrated no traces of any drugs in his system. He submitted to psychiatric examination by a doctor of the Board's own choosing. The psychiatrist's judgment was that Respondent has made sufficient changes in his

environment to make his prognosis "fairly good." For all of these reasons, this Board wishes to encourage Respondent's genuine efforts at rehabilitation and recovery, and allow him the opportunity to re-enter the profession as a skilled and dedicated surgeon.

CONCLUSIONS OF LAW

We conclude that Respondent's purchase and use of Demerol over an extended period of time constitutes a substantial departure from the standard of conduct and character necessary to render dental care to the public in contravention of N.J.S.A. 45:1-13 and N.J.S.A. 45:1-21(e) by purchasing Demerol, a Schedule II Controlled Dangerous Substance, in an indiscriminate manner, not in good faith, without good cause in the practice of dentistry and for his own illicit consumption.

IT IS on this 3 day of March, 1982,

O R D E R E D that:

1. The license of Respondent Pearly H. Hayes, D.D.S., to practice dentistry in the State of New Jersey is hereby suspended for a period of 90 days. Due to the factors of mitigation presented, Respondent shall not be required to serve a period of active suspension.

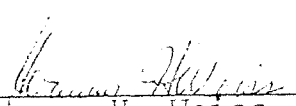
2. Respondent is hereby assessed the sum of \$2,000 as a civil penalty for his past misconduct. Due to the factors of mitigation and financial hardship presented, Respondent shall not be required to remit this sum to the State Board of Dentistry.

3. Respondent shall hereafter refrain from purchasing, except as directed by medical prescription and pursuant to bona fide medical treatment, and prescribing or dispensing any and all Controlled Dangerous Substances.

4. Respondent shall commence a period of three (3) years probation, during which time he shall submit to twelve (12) unannounced urine/blood tests to be conducted by and at the State Medical Examiner's Office and he shall submit to twelve (12) psychiatric evaluations to be conducted by a psychiatrist of the Board's choosing, to be completed at quarterly intervals. The cost of all testing and evaluation is to be borne by Respondent.

5. The costs of the hearing shall be borne by Respondent.

6. Failure to comply with any of the terms or conditions set forth in this Order may, in addition to any other legal remedy available to the Board, render Respondent liable for the imposition of the sanctions heretofore suspended in paragraphs 1 and 2 of this Order.



Herman H. Weiss, President
New Jersey State Board of Dentistry